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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,320	07/23/2003	David A. Brown	2037.2005-008	7755

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EXAMINER

MOFIZ, APU M

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicant(s)	BROWN, DAVID A.	
	Art Unit	2165	
	Applicant N .	10/625,320	
	Examiner	Apu M Mofiz	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-17 is/are rejected.
- 7) ☒ Claim(s) 9, 13, 14 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 13 and 14 are objected to because of the following informalities: "The switch of claim 13" in claim 13 should be "The switch of claim 12". "The switch of claim 14" in claim 14 should be "The switch of claim 13". Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-8 and 10-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,633,567 to Brown. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

The Brown reference discloses a switch, which receives a data packet, searches a filtering database single time to find a forwarding address based on a forwarding

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logic/decision. The data packet is received at an ingress port and forwarded to an egress port. It would have been obvious to use ingress ports and egress ports to receive and forward data packets as taught by Brown for all the reasons disclosed by Brown such as "Physical LAN segment 212a is connected to the switch 200 through ingress port 206a and egress port 208a".

The Brown reference discloses a switch, which receives a data packet, searches a filtering database single time to find a forwarding/destination MAC address based on a forwarding logic/decision. It would have been obvious to use MAC destination address to forward data packets as taught by Brown for all the reasons disclosed by Brown such as "A device 204a-j may be a member of more than one VLAN in order to provide a specific service or security within each VLAN. For example, device 204h may be a server computer and devices 204 a-g client computers" and "VLANs share a dynamic forwarding entry associated with the MAC address for device 204h".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,8,10 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown (U.S. Patent No. 6,775,281).

The applied reference has common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

As to claims 1 and 10, Brown teaches a switch (Abstract; Fig. 1C; col 1, lines 65-67) for receiving and forwarding data packets (col 4, lines 59-67; col 5, lines 1-26) comprising: at least one ingress port (col 4, lines 59-67; col 5, lines 1-26) for receiving data packets (col 4, lines 59-67; col 5, lines 1-26), at least one of the data packets associated with a virtual LAN identifier (i.e. VLAN identifier, which is associated with the MAC address. 12 bit VID is concatenated with 48 bit MAC destination address to form a key to be stored in the hash table/filtering database.) (col 5, lines 48-52); at least one egress port (col 4, lines 59-67; col 5, lines 1-26) for forwarding the data packets (col 4, lines 59-67; col 5, lines 1-26); and forwarding logic (col 7, lines 59-67) which provides a translated identifier (i.e. a destination address is concatenated with a 12 bit VLAN identifier) (col 7, lines 59-67) for the virtual LAN identifier (col 7, lines 59-67), the forwarding logic (col 7, lines 59-67) comprising: a filtering database (i.e., forwarding

entries are in databases implemented by hash tables) (Abstract, col 3, lines 10-67) that provides a forward vector (col 5, lines 48-52) for the translated identifier (col 7, lines 59-67) from a single search (col 2, lines 5-10) of the filtering database (Abstract, col 3, lines 10-67).

As to claims 8 and 17, Brown teaches that the virtual LAN identifier (col 7, lines 59-67) is stored in a header (col 5, lines 1-67) included in the received data packet (col 5, lines 1-67).

Allowable Subject Matter

5. Claims 9 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

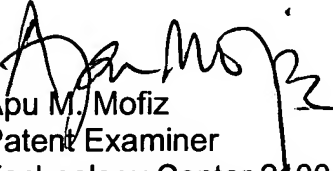
As to claims 9 and 18, the prior art of record Brown (U.S. Patent No. 6,775,281) does not disclose, teach or suggest the claimed limitations of (in combination with all other features in the claims) the forwarding logic, which includes a forward vector table which stores the forward vector associated with the received data packet, the filtering database providing a pointer to the location of the forward vector in the forward vector table.

Points of Contact

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Apu M. Mofiz whose telephone number is (571) 272-4080. The examiner can normally be reached on Monday – Thursday 8:00 A.M. to 4:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached at (571) 272-4083. The fax numbers for the group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.



Apu M. Mofiz
Patent Examiner
Technology Center 2100

December 06, 2004